

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA</b> STREET ADDRESS: 312-C East Cook Street MAILING ADDRESS: P.O. Box 5369 CITY AND ZIP CODE: Santa Maria, CA 93456-5369 BRANCH NAME: Cook Division	FOR COURT USE ONLY <b>FILED</b> SUPERIOR COURT OF CALIFORNIA COUNTY OF SANTA BARBARA  SEP 21 2004
People of the State of California v. Michael Joe Jackson	GARY M. BLAIR, Executive Officer BY <i>Carrie L Wagner</i> CARRIE L WAGNER, Deputy Clerk
<b>FINDINGS AND ORDER RE SEALING DEFENDANT'S REPORT RE PROSECUTION'S FAILURE TO PRODUCE DISCOVERY AND REQUEST FOR SANCTIONS</b>	CASE NUMBER: 1133603

On August 16, 2004, the Defendant filed a Report re Prosecution's Failure to Produce Discovery and Request for Sanctions. The Report was conditionally sealed on August 20, 2004. A redacted version was prepared by the court and release on September 3, 2004. The request to seal the Prosecution's Response to the Report was denied by the court on September 8, 2004.

The Court makes the following findings:

The document in its unredacted form identifies potential witnesses and specifies items of evidence the admissibility of which has yet to be determined by the Court and provides the identity of the minor complaining witness or his family. In particular, the Report included as an exhibit a document entitled "Operations Plan," that was distributed by the Santa Barbara County Sheriff's Department to the officers executing the November 18, 2003 search warrant. This document included names and addresses of specific individuals related to the investigation as well as a time line of events regarding the investigation leading up to the issuance of the search warrant.

In this case, protection of the Defendant's right to a fair trial and protection of the identity of the minor complaining witness and his family overcomes the right of public access to the record. A substantial probability exists that those interests will be prejudiced if the record is not sealed as requested. The intensity of the media coverage in this case is unprecedented. Each court hearing is thoroughly reported and exhaustively analyzed by the media. It is substantially probable that if the evidence expected to be given at trial were to be released pretrial, it would be similarly reported and analyzed. The sealing order is necessary to maintain the integrity of the available jury pool by limiting its exposure to the expected evidence and testimony pretrial and to prevent exposure to inadmissible items of evidence. The Court has consistently held that because of the pervasive media coverage in this case, the Defendant's right to a fair trial outweighs public access. Those findings are relevant here and incorporated by reference. [See Findings and Order re: Motion for Protective Order, filed January 23, 2004 and Findings and Order re: Sealing of Search Warrant Materials, filed January 23, 2004]

There are no less restrictive means to protect those interests. The extraordinary circumstances present in this case overcome the presumption that cautionary admonitions and instructions to the jury pool would have a curative effect. It is far more desirable to avoid the prejudice in the first instance than to hope to identify unaffected jurors later.

The Court acknowledges that its order must be narrowly tailored to accommodate the maximum public disclosure. A redacted version of this document was released on September 3, 2004.

Dated: SEP 21 2004

*Rodney S. McNeill*  
 Judge of the Superior Court  
 RODNEY S. McNeill

PROOF OF SERVICE

1013A(1)(3), 1013(c) CCP

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA:

I am a citizen of the United States of America and a resident of the county aforesaid. I am employed by the County of Santa Barbara, State of California. I am over the age of 18 and not a party to the within action. My business address is 312-H East Cook Street, Santa Maria, California.

On SEPTEMBER 21, 20 04, I served a copy of the attached FINDINGS AND ORDER RE SEALING DEFENDANT'S REPORT RE PROSECUTION'S FAILURE TO PRODUCE DISCOVERY AND REQUEST FOR SANCTIONS addressed as follows:

THOMAS W. SNEDDON, DISTRICT ATTORNEY  
DISTRICT ATTORNEY'S OFFICE  
1105 SANTA BARBARA STREET  
SANTA BARBARA, CA 93101

THOMAS A. MESEREAU, JR.  
COLLINS, MESEREAU, REDDOCK & YU, LLP  
1875 CENTURY PARK EAST, 7<sup>TH</sup> FLOOR  
LOS ANGELES, CA 90067

FAX

By faxing true copies thereof to the receiving fax numbers of: 805-568-2398 (DISTRICT ATTORNEY); 310-861-1007 (THOMAS A. MESEREAU, JR). Said transmission was reported complete and without error. Pursuant to California Rules of Court 2005(i), a transmission report was properly issued by the transmitting facsimile machine and is attached hereto.

MAIL

By placing true copies thereof enclosed in a sealed envelope with postage fully prepaid, in the United States Postal Service mail box in the City of Santa Maria, County of Santa Barbara, addressed as above. That there is delivery service by the United States Postal Service at the place so addressed or that there is a regular communication by mail between the place of mailing and the place so addressed.

PERSONAL SERVICE

By leaving a true copy thereof at their office with their clerk therein or the person having charge thereof.

EXPRESS MAIL

By depositing such envelope in a post office, mailbox, sub-post office, substation, mail chute, or other like facility regularly maintained by the United States Postal Service for receipt of Express Mail, in a sealed envelope, with express mail postage paid.

I certify under penalty of perjury that the foregoing is true and correct. Executed this 21<sup>ST</sup> day of SEPTEMBER, 20 04, at Santa Maria, California.

Carrie L Wagner  
CARRIE L. WAGNER